

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1) JAMES RYAN,

Plaintiff,

v.

Case No. CIV-18-548-F

**2) SAFECO INSURANCE COMPANY OF
AMERICA,**

Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Safeco Insurance Company of America (“Safeco”) hereby removes the above-captioned action from the District Court of Cleveland County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma. In support of this removal, Safeco states as follows:

1. On May 4, 2018, Plaintiff James Ryan commenced an action in the District Court of Cleveland County, Oklahoma, entitled *James Ryan, Plaintiff v. Safeco Insurance Company of America, Defendant*, Case No. CJ-2018-608 (the “State Court Action”). A true copy of the state court docket sheet is attached as Exhibit 1. All processes, pleadings, and orders filed or served in the State Court Action are attached hereto as Exhibits 2 and 3.

2. According to the Petition, Plaintiff is a citizen of Cleveland County, Oklahoma. *See* Exhibit 3, Petition, at ¶ 1.

3. Defendant Safeco is a corporation organized under the laws of the State of New Hampshire with its principal place of business in Boston, Massachusetts.

4. In accordance with 28 U.S.C. § 1446(b)(1), this action has been removed within thirty (30) days of service of Plaintiff's Petition on May 17, 2018.

5. The Western District of Oklahoma includes the state judicial district in which Plaintiff filed his Petition.

6. This is a civil action over which this Court has original jurisdiction based on diversity of citizenship and amount in controversy pursuant to 28 U.S.C. § 1332, and which may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

7. Safeco submits that the amount in controversy exceeds \$75,000.00. Plaintiff seeks compensatory damages as well as punitive damages. (*See* Exhibit 3, Petition, at ¶¶ 7, 19-21 and Plaintiff's Prayer for Relief). Specifically, Plaintiff seeks "an amount greater than \$60,000.00, plus punitive damages together with attorneys' fees and costs, and all other relief this court deems just and equitable." (*See id.* at Plaintiff's Prayer for Relief). It is fundamental that "[p]unitive damages may be considered in determining the requisite jurisdictional amount." *Singleton v. Progressive Direct Ins. Co.*, 49 F. Supp. 3d 988, 993 (N.D. Okla. Sept. 9, 2014). Oklahoma federal courts have permitted removal where the plaintiff's stated actual damages were only \$10,000.00 or more but the plaintiff also sought punitive damages, noting "a punitive damages award of \$65,000 or more would reach the jurisdictional threshold" and "would require no more than a single-digit ratio of punitive damages to actual damages." *See id.* at 993-94. Here, a punitive damage award of only \$15,000.00 or more would reach the jurisdictional amount. Plainly, Plaintiff's allegations exceed the requisite jurisdictional amount. *See also Daniels v. Safeco*, Case No. CIV-16-360-C, June 29, 2016 Memorandum Opinion and Order, attached as Exhibit 4.

8. Contemporaneous with Safeco's filing of this Notice, Safeco will serve written notice to Plaintiff's counsel of this filing, as required by 28 U.S.C. § 1446(d).

9. Defendant Safeco shall likewise file a true and correct copy of its Notice of Removal with the Clerk of the District Court in and for Cleveland County, State of Oklahoma, as required by 28 U.S.C. § 1446(d).

CONCLUSION

Defendant Safeco Insurance Company of America respectfully removes the State Court action from the District Court for Cleveland County, Oklahoma, to the United States District Court for the Western District of Oklahoma, to proceed as an action properly removed thereto.

Dated: June 5, 2018

Respectfully submitted,

**HALL, ESTILL, HARDWICK,
GABLE, GOLDEN & NELSON, P.C.**

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**ATTORNEYS FOR DEFENDANT,
SAFECO INSURANCE COMPANY
OF AMERICA**

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of June, 2018, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the Following ECF registrants:

Aaron D. Compton

ATTORNEY FOR PLAINTIFF

s/William W. O'Connor

William W. O'Connor